

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

IN RE:

RAYMOND JOSEPH BEACH

AND

DAWN MARIE BEACH

Debtors

Address: 11203 Mintwood Court

Fredericksburg, VA 22401

Last four digits of Social Security No.(s): XXX-XX-6120 and
XXX-XX-8377

BCN #: 12-34911/KRH

Chapter: 13

NOTICE OF MOTION

Bank of America, N.A. has filed papers with the court to request an order granting relief from the Automatic Stay.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the relief sought in the Motion, or if you want the court to consider your views on the Motion, then on or before May 13, 2014, you or your attorney must:

- File with the court, at the address shown below, a written request for a hearing [or a written response pursuant to Local Bankruptcy Rule 9013-1(H)]. If you mail your request for hearing (or response) to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above.

Clerk of Court
United States Bankruptcy Court
701 East Broad Street
Room 4000
Richmond, VA 23219

You must also mail a copy to:

Susan C. Meyer, Esq.
SHAPIRO BROWN & ALT, LLP
236 Clearfield Avenue, Suite 215
Virginia Beach, Virginia 23462
(757) 687-8777

Susan C. Meyer, Esq.
SHAPIRO BROWN & ALT, LLP
236 Clearfield Avenue, Suite 215
Virginia Beach, Virginia 23462 Attorneys for Bank of America, N.A.

- Attend the hearing on the motion or objection scheduled to be held on May 21, 2014 at the United States Bankruptcy Court, 701 East Broad Street, Richmond, VA 23219 in Courtroom 5000 at 9:30 AM.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the Motion and may enter an order granting that relief.

14-240574

Dated: April 29, 2014

SHAPIRO BROWN & ALT, LLP
Attorneys for Bank of America, N.A.

By: /s/Susan C. Meyer
Susan C. Meyer, Esquire, VSB #43445
SHAPIRO BROWN & ALT, LLP
236 Clearfield Avenue, Suite 215
Virginia Beach, Virginia 23462
(757) 687-8777

CERTIFICATE OF SERVICE

I certify that I have this 29th day of April, 2014, electronically transmitted and/or mailed by first class mail, postage pre-paid, a true copy of the foregoing Notice of Motion to the following:

Roger C. Hurwitz
The Debt Law Group, PLLC
4036 Plank Road
Box 10
Fredericksburg, VA 22407

Carl M. Bates
Chapter 13 Trustee
Post Office Box 1819
Richmond, VA 23218

Raymond Beach and Dawn Marie Beach
11203 Mintwood Court
Fredericksburg, VA 22401

/s/Susan C. Meyer
Susan C. Meyer, Esquire, VSB #43445

United States Bankruptcy Court
Eastern District of Virginia
Richmond Division

In RE:
Raymond Joseph Beach and Dawn Marie
Beach

BCN#: 12-34911/KRH
Chapter: 13

Debtors

Bank of America, N.A.
or present noteholder,
Movant/Secured Creditor,

v.

Raymond Joseph Beach and Dawn Marie Beach
Debtors

and

Carl M. Bates
Trustee
Respondents

**MOTION FOR RELIEF FROM AUTOMATIC STAY
(REAL PROPERTY)**

Bank of America, N.A. (“Movant”), hereby moves this Court, pursuant to 11 U.S.C. §362, for relief from the automatic stay with respect to certain real property of the Debtors having an address of 11203 Mintwood Court, Fredericksburg, VA 22401 (the “Property”), for all purposes allowed by the Note (defined below), the Deed of Trust (defined below), and applicable law, including but not limited to the right to foreclose. In further support of this Motion, Movant respectfully states:

1. The Bankruptcy Court has jurisdiction over this contested matter pursuant to 28 U.S.C. §157 and §1334; 11 U.S.C. §362 and local Bankruptcy Rule 4001(a)-1. This matter is a core proceeding.

2. A petition under Chapter 13 of the United States Bankruptcy Code was filed with respect to the Debtors on August 22, 2012.

Susan C. Meyer, Esq.
SHAPIRO BROWN & ALT, LLP
236 Clearfield Avenue, Suite 215
Virginia Beach, Virginia 23462 Attorneys for Bank of America, N.A.

3. Carl M. Bates, Trustee, has been appointed by this Court as the Chapter 13 Trustee in the instant bankruptcy proceeding.

4. An amended Chapter 13 Plan was confirmed on November 15, 2013.

5. The Debtors have executed and delivered or are otherwise obligated with respect to that certain promissory note in the original principal amount of \$241,214.00 (the "Note"). A copy of the Note is attached hereto as Exhibit 1.

6. Pursuant to that certain Deed of Trust (the "Deed of Trust"), all obligations (collectively, the "Obligations") of the Debtors under and with respect to the Note and the Deed of Trust are secured by the Property. The lien created by the Deed of Trust was perfected by recording of the Deed of Trust in the office of SPOTSYLVANIA. A copy of the recorded Deed of Trust is attached hereto as Exhibit 2.

7. The legal description of the Property is:

All that certain lot, piece or parcel of land, with all improvements, located in Spotsylvania County, Virginia and known as Lot 29-R, Section One, Piedmont Hills, duly dedicated, platted and recorded among the aforesaid land records at
Plat File 2, Pages 569-572.

Being the same property conveyed unto Raymond J. Beach Dawn M. Beach, husband and wife, by Deed from Kevin Gerald Stottlar and Sara . Stottlar dated November 19, 2003 and recorded as Instrument Number LR2003000049463 on November 11, 2003 among the land records of Spotsylvania County, Virginia.

8. Bank of America, N.A. services the loan on the Property referenced in this Motion. In the event the automatic stay in this case is modified, this case dismisses, and/or the Debtors obtain a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the name of Movant. Movant, directly or through an agent, has possession of the Note. The Note is either made payable to Movant or has been duly endorsed.

9. As of March 24, 2014, the outstanding amount of the Obligations less any partial payments or suspense balance is \$221,626.50.

10. The following chart sets forth the number and amount of postpetition payments due pursuant to the terms of the Note that have been missed by the Debtors as of March 24, 2014.

Number of Missed Payments	From	To	Monthly Payment Amount	Total Missed Payments
1	August 1, 2013	August 1, 2013	\$1,675.40	\$1,675.40
7	September 1, 2013	March 1, 2014	\$1,744.31	\$12,210.17
Less postpetition partial payments (suspense balance):				(\$94.45)
Total:				<u>\$13,791.12</u>

11. As of March 24, 2014, the total post-petition arrearage/delinquency is \$13,791.12, consisting of (i) the foregoing total of missed post-petition payments in the amount of \$13,791.12, plus (ii) the following post-petition fees¹.

Description	Amount
None	\$0.00

12. In addition to the other amounts due to Movant reflected in this Motion, as of the date hereof, in connection with seeking the relief requested in this Motion, Movant has also incurred: (i) \$650.00 in legal fees and (ii) \$176.00 in legal costs, for a total of \$826 in legal fees and costs.

13. The estimated value of the property is \$201,900.00. The basis for such valuation is tax assessment attached hereto as Exhibit 3.

14. Cause exists for relief from the automatic stay for the following reasons:

(a) Movant's interest in the Property is not adequately protected. Movant's interest in the collateral is not protected by an adequate equity cushion.

¹ The total of missed post-petition payments for this impounded loan include any missed escrow payments. Such missed escrow payments include amounts assessed for taxes and insurance and any previously assessed escrow shortage amount (if applicable). To avoid duplication, post-petition advances (if any) made for insurance, real estate taxes, or similar charges are not listed separately to the extent such advances would have been paid from the missed escrow payments. As part of the next annual RESPA analysis, the Bank will determine whether the escrow payments assessed to the debtor (including the missed escrow payments) result in a projected escrow shortage or overage. All rights are hereby reserved to assert or request any escrow amounts in accordance with RESPA and the total post-petition arrearage/delinquency is qualified accordingly.

(b) Pursuant to 11 U.S.C. § 362(d)(2)(A), Debtors have no equity in the Property.

WHEREFORE, Movant prays that this Court issue an Order terminating or modifying the stay and granting the following:

1. Relief from the stay for all purposes allowed by law, the Note, the Deed of Trust, and applicable law, including, but not limited allowing Movant (and any successors or assigns) to proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property.

2. That the Order be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code.

3. That the fourteen (14) day stay described by Bankruptcy Rule 4001(a)(3) be waived.

4. For such other relief as the Court deems proper.

5. That the Movant has requested that the Court hear this matter on May 21, 2014 at 9:30 AM.

Dated: April 29, 2014

Shapiro Brown & Alt, LLP
Attorneys for Movant

By: /s/Susan C. Meyer
Susan C. Meyer, Esquire, VSB #43445
Shapiro Brown & Alt, LLP
236 Clearfield Avenue, Suite 215
Virginia Beach, Virginia 23462
(757) 687-8777 14-240574

NOTICE OF MOTION AND HEARING

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not wish the Court to grant the relief sought in this motion, or if you want the Court to consider your views on this motion, then within fourteen (14) days from the date of service of this motion, you must file a written response explaining your position with the Court at the following address: Clerk of Court, United States Bankruptcy Court, 701 East Broad Street, Room 4000, Richmond, VA 23219-3515, and serve a copy on the Movant. Unless a written response is filed and served within this fourteen day period, the Court may deem any opposition waived, treat the motion as conceded, and issue an Order granting the requested relief.

If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the expiration of the fourteen day period.

You may attend the preliminary hearing scheduled to be held on: May 21, 2014 at 9:30 AM in Courtroom 5000, United States Bankruptcy Court, 701 East Broad Street, Richmond, VA 23219.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion and may enter an Order granting the requested relief.

Dated: April 29, 2014

SHAPIRO BROWN & ALT, LLP
ATTORNEYS FOR THE MOVANT

/s/Susan C. Meyer
BY: Susan C. Meyer, Esquire, VSB #43445
SHAPIRO BROWN & ALT, LLP
236 Clearfield Avenue, Suite 215
Virginia Beach, Virginia 23462
(757) 687-8777 14-240574
Counsel for Bank of America, N.A.

Certificate of Service

I certify that I have this 29th day of April, 2014, electronically transmitted and/or mailed by first class mail, true copies of the Motion for Relief from the Automatic Stay and Notice of Motion and Hearing to each party required to receive notice.

Roger C. Hurwitz
The Debt Law Group, PLLC
4036 Plank Road
Box 10
Fredericksburg, VA 22407

Carl M. Bates
Chapter 13 Trustee
Post Office Box 1819
Richmond, VA 23218

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